

ESTTA Tracking number: **ESTTA215767**

Filing date: **06/05/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92047976
Party	Plaintiff Kathleen Hiraga
Correspondence Address	Don Thornburgh Don Thornburgh Law Corporation 466 Foothill Boulevard, Suite 220 La Canada Flintridge, CA 91011 UNITED STATES uspto@donthornburgh.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Don Thornburgh
Filer's e-mail	uspto@donthornburgh.com
Signature	/don thornburgh/
Date	06/05/2008
Attachments	Petitioner's Notice of Reliance 06.05.2008.pdf (39 pages)(384403 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____)	
Kathleen Hiraga,	)	Cancellation No. 92047976
)	
Petitioner,	)	Reg. No.: 3,125,129
	)	Serial No.: 78/608724
v.	)	Mark: GARDEN ORGANICS
	)	Filed: April 14, 2005
Sylvester J. Arena,	)	Registered: August 1, 2006 (Supplemental)
)	
Respondent)	
)	
_____)	

Petitioner's Notice of Reliance

Pursuant to 37 C.F.R. § 2.120(j), Petitioner hereby makes of record portions of Registrant's Responses to Petitioner's First Set of Interrogatories and to Petitioner's First Set of Requests for Production of Documents, as follows:

Interrogatory No. 1 and Response

Interrogatory No. 12 and Response

Interrogatory No. 13 and Response

Request for Production of Documents No. 3 and Response

Request for Production of Documents No. 23 and Response

Request for Production of Documents No. 24 and Response

Request for Production of Documents No. 25 and Response

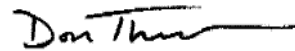
Request for Production of Documents No. 36 and Response

Request for Production of Documents No. 37 and Response

Copies of the relevant portions of Petitioner's First Set of Interrogatories to Registrant are attached hereto as Exhibit A. Copies of the relevant portions of Registrant's Responses to Petitioner's First Set of Interrogatories are attached hereto as Exhibit B. Copies of the relevant portions of Petitioner's First Set of Requests for Production of Documents to Registrant are attached hereto as Exhibit C. Copies of the relevant portions of Registrant's Responses to Petitioner's First Set of Requests for Production of Documents (together with copies of the documents cited by Registrant in such responses) are attached hereto as Exhibit D.

Respectfully submitted,

Date: June 5, 2008

By: 

Don Thornburgh – Attorney for Petitioner
Don Thornburgh Law Corporation
466 Foothill Boulevard #220
La Cañada Flintridge, California 91011
Tel: (818) 790-6547
Fax: (818) 790-6548

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

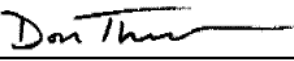
_____)	
Kathleen Hiraga,	)	Cancellation No. 92047976
)	
Petitioner,	)	Reg. No.: 3,125,129
	)	Serial No.: 78/608724
v.	)	Mark: GARDEN ORGANICS
	)	Filed: April 14, 2005
Sylvester J. Arena,	)	Registered: August 1, 2006 (Supplemental)
)	
Respondent)	
_____)	

CERTIFICATE OF SERVICE AND MAILING

It is hereby certified that a copy of the foregoing Petitioner's Notice of Reliance is being deposited with the United States Postal Service, first-class postage prepaid, in an envelope addressed to:

Sylvester J. Arena
2070 West Highway 46
Paso Robles, CA 93446

Executed this 5th day of June, 2008, at La Cañada Flintridge, California.



Don Thornburgh

EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Kathleen Hiraga,)	
	)	Cancellation No. 92/047976
)	
Petitioner,	)	Reg. No.: 3125129
	)	Serial No.: 78608724
v.	)	Mark: GARDEN ORGANICS
	)	Filed: April 14, 2005
Sylvester J. Arena,	)	Registered: August 1, 2006 (Supplemental)
)	
Respondent)	
)	
)	

PETITIONER’S FIRST SET OF INTERROGATORIES

PROPOUNDING PARTY: Petitioner, Kathleen Hiraga

RESPONDING PARTY: Respondent, Sylvester J. Arena

SET NO.: One

PLEASE TAKE NOTICE THAT petitioner, Kathleen Hiraga (“Petitioner”) requests, pursuant to Federal Rule of Civil Procedure 36 and 37 C.F.R. § 2.120, that Sylvester J. Arena (“Respondent”), answer the following First Set of Interrogatories under oath within thirty (30) days of the date of service hereof.

I.

DEFINITIONS AND INSTRUCTIONS

1. In answering these interrogatories, the responding party is required to provide not only such information as is known to it, its agents, and its affiliates, but also

information that is in the possession of its attorneys, legal assistants, investigators, and anyone else acting on its behalf, under its control, or working cooperatively with it.

2. A request that You identify or include the identity of a person calls for You to provide the identifying information, including the person's full name, last known address, and last known telephone number; and the name, address, and telephone number of the person's employer, and the person's last known position or title.

3. As used herein, the term "document(s)" refers to documents, writings, and recordings, as defined in Federal Rule of Evidence 1001, and includes the originals and all copies of handwriting, typewriting, printing, photographing, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, symbols, magnetic impulses, electronic recordings, or combinations thereof. This definition shall apply to all documents on the particular subject of which You have any knowledge or information, irrespective of who has possession, custody, or control of the documents, and irrespective of who prepared, generated, or signed the documents.

4. A request that You include an identification of a document calls for You to describe the document with sufficient particularity such that You could locate it if requested to do so. You are requested to provide the following information in your identification:

- A. The date of the document or a best estimate of the date;
- B. The name of the author(s) and the name of the addressee(s);
- C. The substance of the document; and
- D. The location of the original document or, if unknown, the location of any copies.

5. A request that You state all facts calls for You to state each and every fact known or available to You, including, but not limited to all evidence, contentions, and

opinions that You, your attorneys, legal assistants, investigators, and all persons acting on your behalf, under your control, or working cooperatively with You, have or hold.

6. You have a duty to supplement your responses to these interrogatories at such times and to the extent required by Rule 26(e) of the Federal Rules of Civil Procedure.

7. As used herein, "You" includes your subsidiary and related companies.

8. As used herein, "Your Mark" means registration number 3125129 for "GARDEN ORGANICS".

II.

INTERROGATORIES

INTERROGATORY NO. 1:

Describe in detail the circumstances of the adoption and use by You of each and every mark or trade name incorporating "GARDEN ORGANICS" as an element, including a detailed specification of each good and service offered with respect to each such mark or name and the time periods during which each such mark or name was used with respect to each such good and service.

INTERROGATORY NO. 12:

Describe in detail each inquiry You have ever received or know about as to whether the services and/or goods offered by You in connection with Your Mark are associated with, affiliated with, sponsored by, approved by, and/or connected with Petitioner.

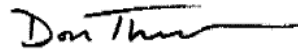
INTERROGATORY NO. 13:

If You contend that there has been any actual confusion as the result of any activities by Petitioner or by the use of any name or mark by Petitioner, please state all facts, including an identification of all relevant documents and all persons with knowledge of such facts, which support your contention.

Dated: February 29, 2008

Respectfully submitted,

Don Thornburgh Law Corporation
Don Thornburgh, Esq.
466 Foothill Boulevard
Suite 220
La Cañada Flintridge, California 91011
Tel. 818-790-6547/Fax 818-790-6548



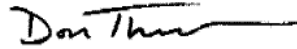
Don Thornburgh
Attorney for Kathleen Hiraga

CERTIFICATE OF SERVICE AND MAILING

It is hereby certified that a copy of the foregoing APPLICANT'S FIRST SET OF INTERROGATORIES is being deposited with the United States Postal Service, first-class postage prepaid, in an envelope addressed to:

Sylvester J. Arena
2070 West Highway 46
Paso Robles, CA 93446

Executed this 29th day of February, 2008, at La Cañada Flintridge, California.



Don Thornburgh

EXHIBIT B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

	)	In the matter of trademark
Kathleen Hiraga,	)	Registration No. 3125129
	)	Serial No. 78608724
Petitioner,	)	For the mark "Garden Organics"
	)	Date filed: April 14, 2005
v.	)	Date registered: August 1, 2006 (Supplemental)
	)	Cancellation No. 92/047976
Sylvester J. Arena,)	
)	
Respondent,)	
)	
)	

ANSWER TO PETITIONER'S FIRST SET OF INTERROGATORIES

Respondent:

Sylvester Arena, an individual
2070 West Highway 46
Paso Robles, California 93446

The following is submitted under oath by the Respondent.

// signed Sylvester Arena //

Sylvester Arena
March 28, 2008

INTERROGATORY NO. 1:

“Describe in detail the circumstances of the adoption and use by You of each and every mark or trade name incorporating "GARDEN ORGANICS" as an element, including a detailed specification of each good and service offered with respect to each such mark or name and the time periods during which each such mark or name was used with respect to each such good and service.

REPLY TO No. 1 –

1. Respondent started developing the Garden Organics label and line of products in September, 2003. The original product line included: *Garden Organics Organic Rose Fertilizer 7-8-4*, *Garden Organics Microbial Planting Powder*, *Garden Organics North Atlantic Seaweed Powder* and *Garden Organics Humic Acid Soil Conditioner*.
2. The initial offering of Garden Organics products occurred in November, 2003 on the back cover of the Arena Roses catalog for spring 2004. Respondent has provided evidence in the Response to Request for Documents that 19,555 copies of this catalog were mailed on December 8, 2003. {As Respondent has noted elsewhere, Arena Roses marketed and distributed rose plants, organics, garden furniture, gifts and other items through 3 channels: the annual mailorder catalog, the website *ArenaRoses.com*, and a retail garden center in Paso Robles, California. Arena Roses shipped items nationally. As has been acknowledged by the Respondent in other documents of this matter, Arena Roses ceased operations on or about May 31, 2006.}
3. The detailed specification of each Garden Organics product is listed on the Garden Organics Product Sheet and the individual product labels – copies of which have been provided with the documents.
4. The products were offered exclusively through the Arena Rose channels until the closing of that business in May, 2006.
5. In January 2007, Respondent contacted Star Roses – a wholesale distributor of garden roses to inquire if they would be interested in selling Garden Organics products. Bill Mann, their general manager, declined.
6. Respondent contacted Steve Bening, the sales representative for Star Roses in California. Prior to working with Star Roses, Mr. Bening sold fertilizers in southern California. During the early spring of 2007, he gave the Respondent his thoughts on potential distributors, potential products and evaluated the Garden Organics Rose Fertilizer by using it in his home garden.
7. In the early autumn of 2007, Respondent proposed the Garden Organics Rose Fertilizer (now known as Garden Organics Rose Granola) to Edmunds' Roses – a subsidiary of JW Jung Seed Co., Randolph, Wisconsin. Edmunds' sells roses nationally via its mailorder catalog and website. Edmunds' added the product to their catalog and website (published November, 2007) and continues to offer the products to this day.

INTERROGATORY NO. 12:

“Describe in detail each inquiry You have ever received or know about as to whether the services and/or goods offered by You in connection with Your Mark are associated with, affiliated with, sponsored by, approved by, and/or connected with Petitioner.”

REPLY TO No. 12 – Respondent has not received inquiries in the manner described in this question.

INTERROGATORY NO. 13:

“If You contend that there has been any actual confusion as the result of any activities by Petitioner or by the use of any name or mark by Petitioner, please state all facts, including an identification of all relevant documents and all persons with knowledge of such facts, which support your contention.”

REPLY TO No. 13 – Respondent reasserts the facts presented in question 10 above.

CERTIFICATE OF SERVICE AND MAILING

It is hereby certified that a copy of the foregoing ANSWER TO PETITIONER'S FIRST SET OF INTERROGATORIES is being deposited with the United States Postal Service, first-class postage prepaid, in an envelope addressed to:

Don Thornburgh Law Corporation
Don Thornburgh, Esq.
466 Foothill Boulevard, Suite 220
La Cañada Flintridge, California 91011

Executed this 28th day of March, 2008, at Paso Robles, California.

A handwritten signature in black ink, appearing to read 'Sylvester', followed by a horizontal line.

Sylvester Arena
2070 West Highway 46
Paso Robles, California 93446

EXHIBIT C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Kathleen Hiraga,)	
	)	Cancellation No. 92/047976
)	
Petitioner,	)	Reg. No.: 3125129
	)	Serial No.: 78608724
v.	)	Mark: GARDEN ORGANICS
	)	Filed: April 14, 2005
Sylvester J. Arena,	)	Registered: August 1, 2006 (Supplemental)
)	
Respondent)	
)	
)	

PETITIONER’S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to provisions of the Federal Rules of Civil Procedure Rule 34 and 37 C.F.R. §2.120, petitioner, Kathleen Hiraga (“Petitioner”) hereby requests that Sylvester J. Arena (“Respondent”) respond to each of the requests set forth below within thirty (30) days of service of such requests and produce the requested documents.

DEFINITIONS AND INSTRUCTIONS

A. “Document” means any written, printed, typed, recorded, magnetic, punched, copied, graphic, or other tangible thing in, upon, or from which information may be conveyed, embodied, translated, or stored (including, but not limited to, papers, records, books, telegrams, telexes, dictation or other audio tapes, video tapes, computer tapes, computer disks, computer printouts, microfilm, microfiche, laser disks, diaries, calendars, photographs, charts, viewgraphs, drawings, sketches and all other writings or drafts thereof), as well as all other tangible things subject to production under Fed. R. Civ. P. 34.

This definition expressly includes, without limitation, all originals, drafts, non-conforming copies, reproductions, facsimiles of written, typed, or printed material of any kind (for example: books, letters, contracts, minutes of a meeting, memoranda, notes on desk calendars and appointment books, canceled checks, invoices, correspondence, telegrams, telex messages, e-mail, intra-office communications, etc.), photographs and films, art work, and information stored on tape, computer disk, or any other type of data storage device. If copies of a document are not identical by reason of hand notations, initials, identification marks, or any other modification, each such non-identical copy is a separate document within the meaning of this definition.

B. Pursuant to Rule 34(b) of the Federal Rules of Civil Procedure, You are instructed to produce documents as they are kept in the usual course of business or the documents shall be organized and labeled to correspond with the categories in this request. In addition, documents are to be produced in full and unexpurgated form; redacted documents will not constitute compliance with this request.

C. Selection of documents from the files and other sources and the numbering of such documents shall be performed in such a manner as to ensure that the source of each document may be determined, if necessary.

D. All documents and things are to be produced in the form, manner, and order in which they are maintained in Your files. Documents and things are to be produced in the folders, cartons, or containers in which they have been maintained, stored, clipped, stapled, or otherwise arranged in the same form and manner in which they are found.

E. Documents attached to each other should not be separated.

F. You are to produce an original of each document or thing, where available. Where the original of a document is not available, You are to produce a true and correct copy of that document.

G. Electronic records and computerized information should be produced in an intelligible format or together with a description of the system from which it derived sufficient to permit rendering the material intelligible.

H. If any requested documents or things cannot be produced in full, produce them to the extent possible, specifying each reason for Your inability to produce the remainder and stating whatever information, knowledge, or belief You do have concerning the unproduced portion.

I. If any documents or things requested were at one time in existence, but are no longer in existence, then so state, specifying for each document or thing:

- (a) the type of document or thing;
- (b) the type(s) of information contained thereon;
- (c) the date upon which it ceased to exist;
- (d) the circumstances under which it ceased to exist;
- (e) the identity of all persons having knowledge of the circumstances under which it ceased to exist, and
- (f) the identity of all persons having knowledge or who had knowledge of the contents thereof.

J. In the event that You seek to withhold any document or information on the basis that it is properly entitled to some limitation of discovery, You are instructed to supply the requesting party with a numerical list of the documents and things for which limitation of discovery is claimed, indicating:

- (a) the identity of each author, writer, sender, or initiator of such document or thing, if any;
- (b) the identity of each recipient, addressee, or party for whom such document or thing was intended, if any, including the identity of all “cc”‘s and “bcc”‘s;

(c) the date of such document, if any, or an estimate thereof and so indicated as an estimate if no date appears on said document;

(d) the general subject matter as described on such document, or, if no such description appears, then such other description sufficient to identify said document;

(e) the paragraph and subparagraph of this request to which the document or thing is responsive; and

(f) the claimed grounds for limitation of discovery (e.g., “attorney-client privilege”).

K. Each of the categories in this Request should be construed independently and not by reference to any other category for purposes of limitation.

L. To the extent permitted by Fed. R. Civ. P. 26, these requests are continuing in nature and, if after the date of production, You become aware of further documents responsive to these requests, or if such documents come into existence, You are directed to produce such additional documents promptly for inspection and copying.

3. The invoices or other documents that evidence Your date of first use and Your date of first use in interstate or foreign commerce for “GARDEN ORGANICS” for each of the product and/or service categories for which You claim trademark or service mark rights.

23. Samples of each and every business form, letterhead, and business card used by You in connection with “GARDEN ORGANICS” or any other name or mark that includes “GARDEN ORGANICS”.

24. Representative samples of all telephone book advertisements and listings placed with respect to “GARDEN ORGANICS” or any other names or marks including “GARDEN ORGANICS”.

25. All documents relating to any and all radio or television advertising spots placed with respect to “GARDEN ORGANICS” or any other names or marks including “GARDEN ORGANICS”.

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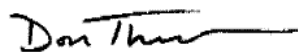
36. All documents which support any claim asserted by You in this action.

37. All documents upon which You intend to rely upon in connection with this action.

Dated: February 29, 2008

Respectfully submitted,

Don Thornburgh Law Corporation
Don Thornburgh, Esq.
466 Foothill Boulevard
Suite 220
La Cañada Flintridge, California 91011
Tel. 818-790-6547/Fax 818-790-6548



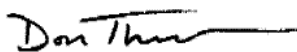
Don Thornburgh
Attorney for Kathleen Hiraga

CERTIFICATE OF SERVICE AND MAILING

It is hereby certified that a copy of the foregoing APPLICANT'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS is being deposited with the United States Postal Service, first-class postage prepaid, in an envelope addressed to:

Sylvester J. Arena
2070 West Highway 46
Paso Robles, CA 93446

Executed this 29th day of February, 2008, at La Cañada Flintridge, California.



Don Thornburgh

EXHIBIT D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

_____	)	In the matter of trademark
Kathleen Hiraga,	)	Registration No. 3125129
	)	Serial No. 78608724
Petitioner,	)	For the mark “Garden Organics”
	)	Date filed: April 14, 2005
v.	)	Date registered: August 1, 2006 (Supplemental)
	)	Cancellation No. 92/047976
Sylvester J. Arena,)	
)	
Respondent,)	
)	
_____)	

ANSWER TO PETITIONER’S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

Respondent:

Sylvester Arena, an individual
2070 West Highway 46
Paso Robles, California 93446

3. The invoices or other documents that evidence Your date of first use and Your date of first use in interstate or foreign commerce for “GARDEN ORGANICS” for each of the product and/or service categories for which You claim trademark or service mark rights.

[Item 2] RESPONDENT is providing a copy of Invoice #139573, dated December 15, 2003, from Colorgraphics, Inc. (PO Box 51490, Los Angeles, CA 90051-5790). The Petitioner will note that the invoice specifies that CG Job Number 110312/1066 is for the printing of 50,000 copies of the Arena Roses 2004 catalog.

[Item 3] Respondent is providing a copy of the Arena Roses 2004 catalog. Petitioner will note that ‘Garden Organics’ products appear on the back cover. Petitioner will also note that the original design of the ‘Garden Organics’ mark is identical to the current design of the ‘Garden Organics’ mark.

[Item 4] Respondent is providing a copy of Postage Statement filed with the US Postal Service on December 8, 2003 for the mailing of 19,555 catalogs

[Item 5] Respondent is providing a copy of Invoice #5521 from Accurate Mailing Service for list management and handling services for the mailing of 19,555 catalogs on December 8, 2003

ColorGraphics

Please send remittance to:

ColorGraphics, Inc.

Post Office Box #51490

Los Angeles, CA 90051 5790

tel 323 261-7171

fax 323 780-3811

Invoice Number: 139573

Invoice Date: 12/15/03

Due Date: 12/15/03

PO Number:

Sales Rep: Mark Nuremberg

CG Job Number: 110312/1066

Batch Number: 43388/ 9

Page Number: 1

i n v o i c e

Bill To: 112548

Syl Arena Roses LLC

Attn: Syl Arena

1041 Paso Robles St.

Paso Robles, CA 93446

Thank you for your business.

Qty Ordered	Qty Billed	Description	Unit Price U/M	Amount
50,000	50,000	2004 PRODUCT CATALOG - TAX EXEMPT		33,433.00
		1,300 - Overs (\$742.00)		
		Customer pre-press alterations		344.00
	50,000	Total Quantity Billed:		

Net Sales:				33,777.00

Invoice Total:				\$33,777.00
Less Payment(s) Received				\$-30,000.00
Amount Due:				\$3,777.00
				=====

Terms: 1/3 Adv, 1/3 Proof, Bal COD

SYL ARENA ROSES LLC

WWW.SYLAARENA.COM

231

USPS
catalog mailing
12-8-2003
7128 78

Q

SYL ARENA ROSES LLC

WWW.SYLAARENA.COM

2312

11/05/2003 10:42 805-237-0140 ACCURATE MAIL SERVICE PAGE 01

United States Postal Service
Postage Statement — Standard Mail Letters and Flats
Permit Imprint

For letters subject to the nonmachinable surcharge and pieces subject to the residual shape surcharge, use Form 3602-RS.

MAILER INFORMATION

Permit Holder's Name and Address, and E-mail Address If Any	Telephone 805-237-0140	Name and Address of Mailing Agent (If other than permit holder)	Telephone	Name and Address of Individual or Organization for Which Mailing Is Prepared (If other than permit holder)
Accurate Mailing Service PO Box 880 Paso Robles CA 93447-0880		Accurate Mailing Service PO Box 880 Paso Robles CA 93447-0880		Arena Rose PO Box 3096 Paso Robles CA 93447-3096
CAPS Cust. Ref. ID		Dun & Bradstreet No.		Dun & Bradstreet No.

MAILING INFORMATION

Post Office of Mailing PASO ROBLES CA	Processing Category (DMM C050) <input type="checkbox"/> Letters <input checked="" type="checkbox"/> Flats <input type="checkbox"/> Automation Flats (DMM C050)	Mailing Date 12/08/2003	Federal Agency Cost Code	Statement Seq. No.	No. of Containers 1' MM Trays 2' MM Trays 2' EMU Trays Total Ltr. Trays Flat Trays No. of Sacks
Permit No. 163		Weight of a Single Piece 0.2894 pounds		Total Pieces 19,555	N/A 3/4
For Mail Enclosed Within Another Class <input type="checkbox"/> Periodicals <input type="checkbox"/> Bound Printed Matter <input type="checkbox"/> Library Mail <input type="checkbox"/> Media Mail <input type="checkbox"/> Parcel Post		If Sacked, Based on <input type="checkbox"/> 125 Pcs. <input checked="" type="checkbox"/> 15 Lbs. <input type="checkbox"/> 8001		Total Weight 5659.2170	
For Automation Rate Pieces, Enter Date of Address Matching and Coding (DMM A950.3.0) 12/08/2003	For Enhanced Carrier Route Rate Pieces, Enter Date of Address Matching and Coding (DMM A950.3.0) 12/05/2003	For Enhanced Carrier Route Rate Pieces, Enter Date of Carrier Route Sequencing (DMM M050.4.0) 12/05/2003			

POSTAGE COMPUTATION (DMM P013)

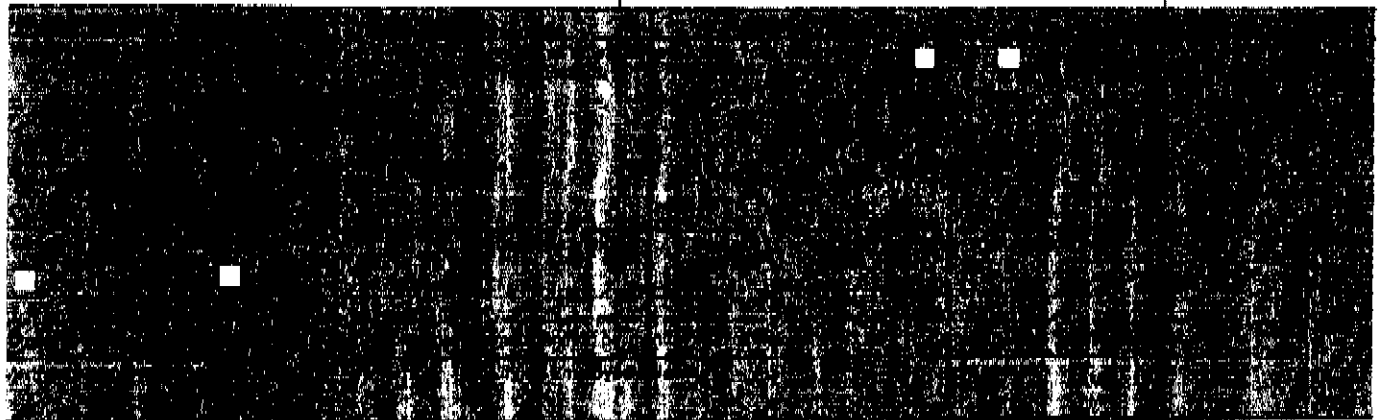
For Automation Letters and Flats (3.3 oz. or less)	Total From Part A (On reverse)	
For Presorted Letters and Flats (3.3 oz. or less)	Total From Part B (On reverse)	
For Enhanced Carrier Route Letters and Flats (3.3 oz. or less)	Total From Part C (On reverse)	
For All Letters and Flats More Than 3.3 oz.	Total From Part D (On reverse)	\$ 7,128.775
Postmaster: Report total postage in AIC 130.	Total Postage (Add lines above) →	\$ 7,128.78

CERTIFICATION

The mailer's signature certifies acceptance of liability for and agreement to pay any revenue deficiencies assessed on this mailing, subject to appeal. If an agent signs this form, the agent certifies that he or she is authorized to sign on behalf of the mailer, and that the mailer is bound by the certification and agrees to pay any deficiencies. In addition, agents may be liable for any deficiencies resulting from matters within their responsibility, knowledge, or control. The mailer hereby certifies that all information furnished on this form is accurate, truthful, and complete; that the mail and the supporting documentation comply with all postal standards and that the mailing qualifies for the rates and fees claimed; and that the mailing does not contain any matter prohibited by law or postal regulation.

I understand that anyone who furnishes false or misleading information on this form or who omits information requested on this form may be subject to criminal and/or civil penalties, including fines and imprisonment.

Signature of Mailer or Agent	Name of Mailer or Agent	Telephone 805-237-0140
------------------------------	-------------------------	---------------------------



SYL ARENA ROSES LLC

2299

accrue mail

23dec03
\$1293.85

G

SYL ARENA ROSES LLC

2299

Accurate Mailing Service
 PO Box 880
 Paso Robles CA 93447-0880
 805-237-0140 Fax 805-239-0256
 Email: amsinfo@arrival.net

Invoice

DATE	INVOICE NO.
12/8/2003	5521

BILL TO

Syl Arena Roses LLC
 PO Box 3096
 Paso Robles CA 93447-3096

P.O. NO.	TERMS	DUE DATE	PROJECT	
	Due On Receipt	12/8/2003	Calatog 2004	
DESCRIPTION		QTY	RATE	AMOUNT
NCOA Update - Address Update		19,963	0.00726	145.00
Label Printing - Direct Impression w/ address corrections and barcoding		19,555	0.03125	611.09
Sorting and bundling		19,555	0.0275	537.76

We appreciate your prompt payment.

THIS BILL IS DUE AND PAYABLE ON PRESENTATION AND PAST DUE 30 DAYS THEREAFTER.
 LATE CHARGE OF 1 1/2% PER MONTH

Total \$1,293.85

23. *Samples of each and every business form, letterhead, and business card used by You in connection with “GARDEN ORGANICS” or any other name or mark that includes “GARDEN ORGANICS”.*

RESPONDENT replies that he has no business form, letterhead or business card used in connection with ‘Garden Organics’ or any other name or mark that specifically includes ‘Garden Organics’

24. *Representative samples of all telephone book advertisements and listings placed with respect to “GARDEN ORGANICS” or any other names or marks including “GARDEN ORGANICS”.*

RESPONDENT replies that he has not taken out telephone book advertisements or placed listings that specifically refer to ‘Garden Organics’ or any other names or marks including ‘Garden Organics’.

25. All documents relating to any and all radio or television advertising spots placed with respect to “GARDEN ORGANICS” or any other names or marks including “GARDEN ORGANICS”.

RESPONDENT replies that Arena Roses seasonally advertised on KPRL, a small AM radio station in Paso Robles, California. He does not recall that these advertisements mentioned ‘Garden Organics’.

36. *All documents which support any claim asserted by You in this action.*

RESPONDENT replies that he has provided all documents which support his claims and assertions in this matter as part of his other responses to the Admissions, the Interrogatories and this Request for Documents – with the exception of those that Respondent he has indicated he has not been able to locate in storage relating to sales figures.

37. All documents upon which You intend to rely upon in connection with this action.

RESPONDENT replies that to the best of his knowledge and foresight he has provided all documents upon which he intends to rely in this matter as part of his responses to this Request, the Interrogatories and the Admissions – with the exception of those that Respondent he has indicated he has not been able to locate in storage relating to sales figures.

CERTIFICATE OF SERVICE AND MAILING

It is hereby certified that a copy of the foregoing ANSWER TO PETITIONER'S FIRST SET OF INTERROGATORIES is being deposited with the United States Postal Service, first-class postage prepaid, in an envelope addressed to:

Don Thornburgh Law Corporation
Don Thornburgh, Esq.
466 Foothill Boulevard, Suite 220
La Cañada Flintridge, California 91011

Executed this 28th day of March, 2008, at Paso Robles, California.

A handwritten signature in black ink, appearing to read 'Sylvester Arena', followed by a horizontal line.

Sylvester Arena
2070 West Highway 46
Paso Robles, California 93446